

FILED 14 JUL '11 10:29 UDC:CRP

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

MARGARET BARICEVIC,

Plaintiff,

V.

CAL-WESTERN RECONVEYANCE  
CORPORATION; ET AL.,

Defendants.

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Civil No. 11-166-JO

### OPINION AND ORDER

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JONES, Judge:

This action for wrongful foreclosure is before the court on defendant Cal-Western Reconveyance Corp.'s motion to dismiss (# 10) and Request for Judicial Notice (# 13), and defendant Wells Fargo Bank, NA's motion to dismiss and/or for summary judgment (# 15). Additionally, plaintiff's counsel has moved to withdraw (# 50) and Wells Fargo has moved to extend all pre-trial dates (# 49).

Plaintiff's counsel's motion to withdraw is granted.

Defendant Cal-Western's request for judicial notice is granted. Cal-Western's motion to dismiss is well-taken and is granted. Specifically, no Oregon statute requires a specific time lapse between the recording of an appointment of a successor trustee and the successor trustee's recording of a notice of default. In any event, the appointment of successor trustee in this case was in fact recorded just before the notice of default. Additionally, the record<sup>1</sup> demonstrates that all postponements of the trustee's sale were properly proclaimed at the time and place set for sale. See ORS 86.755; Affidavit of John Jerman; Affidavit of Steven Black.

Well Fargo's motion for summary judgment also is well-taken and is granted. Specifically, I agree with the well-reasoned opinion issued by Judge Hernandez in Copeland-

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<sup>1</sup> Cal-Western joined in Wells Fargo's motion for summary judgment, and all parties, including plaintiff, submitted evidentiary materials.

Turner v. Wells Fargo Bank, N.A., Civil No. 11-37-HZ (Opinion & Order July 6, 2011) (# 32), and find that plaintiff's claims against Wells Fargo are preempted by the Home Owners' Loan Act, 12 U.S.C. §§ 1461 et seq and the implementing federal regulations.

#### CONCLUSION

Plaintiff's counsel's motion to withdraw (# 50) is granted. Wells Fargo's motion to extend deadlines (# 49) is moot. Cal-Western's motion to dismiss (# 10) and Request for Judicial Notice (# 13), and Wells Fargo's motion to dismiss and/or for summary judgment (# 15) are granted. Any other pending motions are denied as moot, and this action is dismissed with prejudice.

DATED this 14<sup>th</sup> day of July, 2011.

  
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ROBERT E. JONES  
U.S. District Judge